

A U S T I N C I T Y C O U N C I L

**AGENDA**

Thursday, June 22, 2006

#108PH

Back

**Zone Hearings/App Ordinances/Restrictive Covenants  
RECOMMENDATION FOR COUNCIL ACTION**

**Subject:** C14-06-0081 - La Vista on Lavaca - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1701 Lavaca Street (Town Lake Watershed) from downtown mixed use (DMU) district zoning and general commercial services (CS) district zoning to downtown mixed use-conditional overlay (DMU-CO) combining district zoning. Planning Commission Recommendation: To grant downtown mixed use-conditional overlay (DMU-CO) combining district zoning. Applicant: Guerrero-McDonald & Associates, Inc. (mary Guerrero-McDonald). Agent: LOC Consultants (Sergio Lozano/Joan Temus). City Staff: Jorge E. Rousselin, 974-2975.

**Additional Backup Material**

(click to open)

Staff Report

For More Information: Jorge E. Rousselin, 974-2975.

**ZONING REVIEW SHEET****CASE:** C14-06-0081**P. C. DATE:** May 23, 2006**ADDRESS:** 1701 Lavaca Street**OWNER:** Guerrero-McDonald & Associates, Inc.  
(Mary Guerrero-McDonald)**AGENT:** LOC Consultants  
(Sergio Lozano/Joan Ternus)**REZONING FROM:** CS (Commercial services) and DMU (Downtown mixed use)**TO:** DMU (Downtown mixed use)**AREA:** 0.407 Acres (17,728.92 square feet)**SUMMARY PLANNING COMMISSION RECOMMENDATION:**

May 23, 2006:

***APPROVED STAFF'S RECOMMENDATION FOR DMU-CO ZONING WITH CONDITION OF A 60-FT. HEIGHT LIMIT FOR THE CS TRACT (LOT 2); BY CONSENT.******[J.REDDY, K.JACKSON 2<sup>ND</sup>] (8-0) G.STEGEMAN - ABSENT*****SUMMARY STAFF RECOMMENDATION:**

Staff recommends DMU-CO (Downtown mixed use) conditional overlay combining district. The recommended conditional overlay will limit the vehicle trips to less than 2,000 vehicle trips per day pursuant to LDC, 25-6-117. The recommendation is based on the following considerations:

- 1.) The proposed use is compatible with existing commercial and mixed use development along Lavaca Street, and West 17<sup>th</sup> Street;
- 2.) It is within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines; and
- 3.) The proposed development will not be subject to compatibility standards.

**DEPARTMENT COMMENTS:**

The subject rezoning area is a 17,728.92 square foot site fronting Lavaca Street and West 17<sup>th</sup> Street zoned DMU and CS. The applicant proposes to rezone the property to DMU for the development of a 120-foot, multi-story building including retail, offices and condominiums with an underground garage under both existing lots. Access is proposed via West 17<sup>th</sup> Street with no access proposed on Lavaca Street. The property is subject to active Board of Adjustment variances under case C15-01-011 and C15-01-072. On February 12, 2001, under case C15-01-011, a variance was granted for the reduction of the minimum side street setback requirement of Section 25-2-492(D) from 10 feet to 0 feet along the south property line for the erection of a parking garage (Please see Attachment A). Furthermore, on June 11, 2001, under case C15-01-072 an additional Board of Adjustment variance was granted to increase the maximum impervious coverage requirement of Section 25-2-492(D) from 95% to 100% for the erection of a parking garage. In addition, a variance to increase the maximum floor to area ratio (FAR) requirement of 25-2-492(D) from 5:1 to 8:1 to erect a mixed use building was granted (Please see Attachment B). The approved variances were granted as part of the proposed development at the site under site plan SP-01-0225C (Please see Attachment C). On August 6, 2004, a one-year administrative extension was granted for site plan SP-01-0225C under case site plan SP-01-0225C(XT).

A current site plan under SP-05-1699C is under review (Please see Attachment D). Furthermore, the site is subject to a restrictive covenant addressing development of the tract as a single site (Please see Attachment E).

**EXISTING ZONING AND LAND USES:**

|              | <b>ZONING</b> | <b>LAND USES</b>                  |
|--------------|---------------|-----------------------------------|
| <i>Site</i>  | DMU / CS      | Undeveloped land (razed building) |
| <i>North</i> | CS            | Scottish Rite Temple              |
| <i>South</i> | CS            | Parking garage                    |
| <i>East</i>  | CS            | Time Warner                       |
| <i>West</i>  | DMU           | Restaurant                        |

**AREA STUDY:**

Downtown Austin Design Guidelines

**TIA:** Waived; See Transportation comments

**WATERSHED:** Town Lake

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

142--Five Rivers Neighborhood Assn.  
 159--North Capitol Area Neighborhood Assn.  
 402--Downtown Austin Neighborhood Assn. (DANA)  
 438--Downtown Austin Alliance  
 511--Austin Neighborhoods Council  
 603--Mueller Neighborhoods Coalition  
 623--City of Austin Downtown Commission  
 698--West Campus Neighborhood Association  
 742--Austin Independent School District  
 744--Sentral Plus East Austin Koalition (SPEAK)  
 767--Downtown Austin Neighborhood Coalition

**SCHOOLS:**

Austin Independent School District

- Lee Elementary School
- Kealing Middle School
- McCallum High School

**RELATED CASES:** N/A

**CASE HISTORIES:**

| <b>NUMBER</b> | <b>REQUEST</b>    | <b>COMMISSION</b>  | <b>CITY COUNCIL</b>  |
|---------------|-------------------|--|--|
| C14-96-0009   | CS and DMU to CBD | 03/26/96: APVD CBD-CO (W 120') AND DMU (BALANCE) W/CONDS (7-2) | 05/08/97: 3RD RDG DENIED DMU-CURE (DUE TO PETITION; MOTION TO APVE FAILED 5-2) |
| C14-99-2066   | GO to DMU         | 01/25/00: APVD STAFF REC OF DMU-CO & DMU-H-CO (8-1 JR-         | 05/18/00: APVD PC REC OF DMU-H-CO (TR 1) & DMU-CO (TR 2 &                      |

|             |                      |   |  |
|-------------|----------------------|---|--|
|             |                      | NAY); INCLUDING CONDS BY HLC & CONDS AGREED UPON BY AP & NEIGH; DELETE COUNSELING SVCS FROM THE PROHIBITED USES (8-1 JR-NAY). | 3). (5-0)  |
| C14-01-0131 | CS to CS-MU and MF-6 | 02/26/02: ZAP FWD TO CC W/O REC (8-0); [PREVIOUS MOTION TO APVE MF-6-CO FAILED 4-4]   | 03/01/02: APVD CS-MU-CO & MF-6 CO (7-0) W/10 CONDS; 1ST RDG<br><br>05/09/02: APVD CS-MU & MF-6 (7-0); 2ND/3RD RDGS |
| C14-03-0018 | MF-4 to CS           | 02/26/03: APVD STAFF ALT REC OF CS-CO BY CONSENT (7-0)  | 03/20/03: APVD CS-CO (7-0); 3 RDGS   |

**ABUTTING STREETS:**

| Name                       | ROW | Pavement | Classification |
|----------------------------|-----|----------|----------------|
| Lavaca Street              | 82' | 52'      | Arterial       |
| W. 17 <sup>th</sup> Street | 60' | 30'      | Collector      |

**CITY COUNCIL DATE:**

June 22, 2006

**ACTION:****ORDINANCE READINGS:** 1<sup>st</sup>2<sup>nd</sup>3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousselin, NPZD**PHONE:** 974-2975**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)



SUBJECT TRACT  
 PENDING CASE  
 ZONING BOUNDARY  
 CASE MGR: J.ROUSSELIN

CASE #: C14-06-0081  
 ADDRESS: 1701 LAVACA ST  
 SUBJECT AREA (acres): 0.407

ZONING

DATE: 06-04

INTLS: SM

CITY GRID  
 REFERENCE  
 NUMBER  
 J23

1"=400'



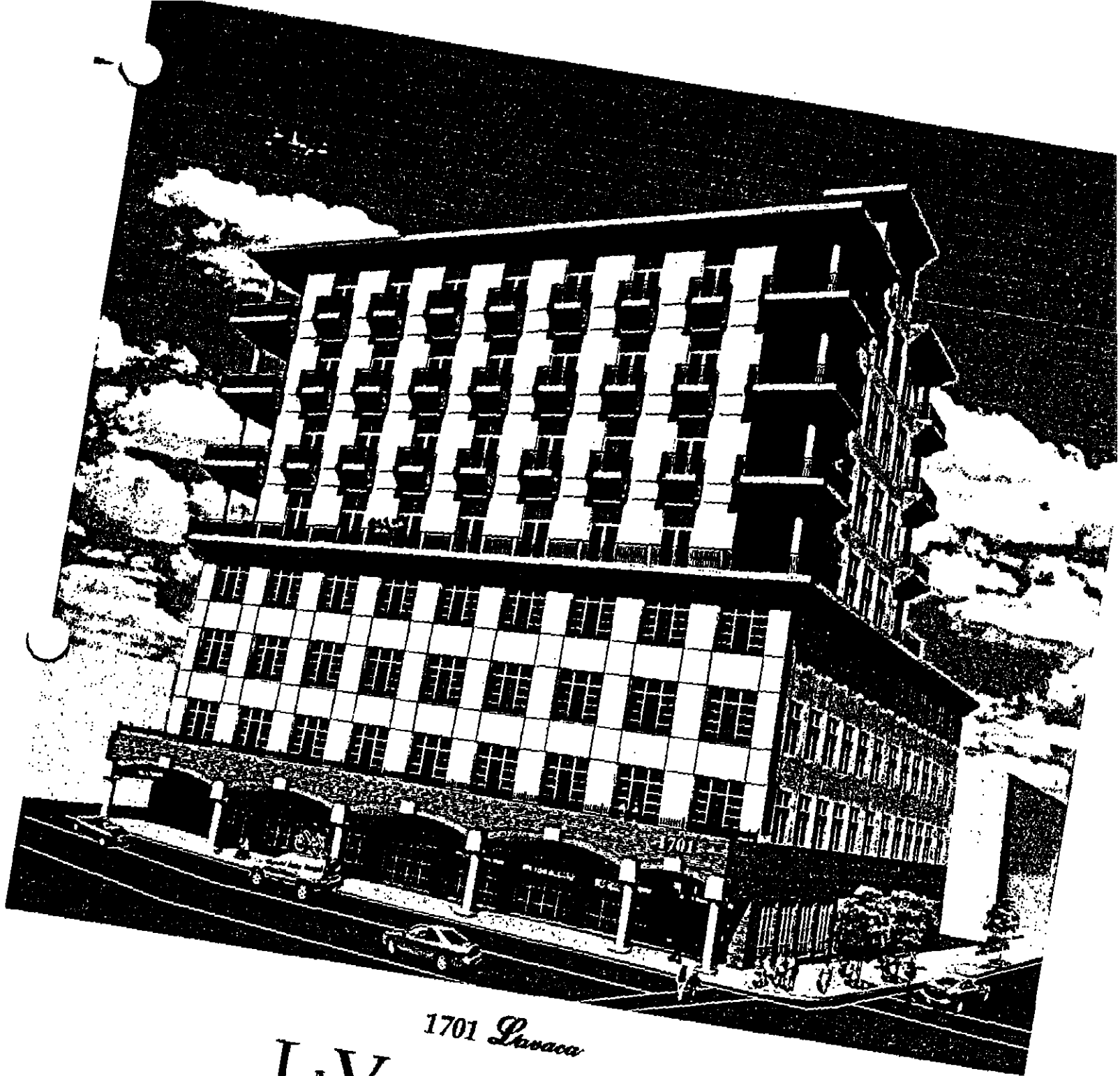
1701 Lavaca St.  
C14-06-0081

**Legend**

- Zoning
- Setback
- Center Line

30 0 30 60 90 Feet

C14-06-0081



1701 *Lavaca*

# LAVISTA ON LAVACA

*"Setting the Standard for Urban Living"*  
*Morales & Associates, Architects Inc.*

## STAFF RECOMMENDATION

Staff recommends DMU-CO (Downtown mixed use) conditional overlay combining district. The recommended conditional overlay will limit the vehicle trips to less than 2,000 vehicle trips per day pursuant to LDC, 25-6-117. The recommendation is based on the following considerations:

- 1.) The proposed use is compatible with existing commercial and mixed use development along Lavaca Street, and West 17<sup>th</sup> Street;
- 2.) It is within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines; and
- 3.) The proposed development will not be subject to compatibility standards.

## BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

### **§ 25-2-101 DOWNTOWN MIXED USE (DMU) DISTRICT DESIGNATION.**

*Downtown mixed use (DMU) district is the designation for a use located on the periphery of an area that has a CBD designation. A DMU district designation may be applied to a development that includes any combination of office retail, commercial, and residential uses and that is compatible with the downtown area. A DMU district use with an intermediate density may be used as a transition between the downtown area and surrounding districts. A DMU district is suitable for an area to which the central business district may expand.*

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property an undeveloped land located within to the designated Core Downtown District as identified by the Downtown Austin Design Guidelines. Furthermore, the proposed mix of uses will encourage a diversity of land uses along Lavaca Street and West 17<sup>th</sup> Street.

2. *The proposed zoning should promote consistency, and orderly planning.*

The proposed change and recommended conditional overlay is compatible with the surrounding area as it is surrounded by a mixture of land uses, intensities, and CS and DMU zoning. The proposed land uses are compatible to the existing adjacent uses.

## EXISTING CONDITIONS

### **Site Characteristics**

The subject rezoning area is a 17,728.92 square foot site fronting Lavaca Street and West 17<sup>th</sup> Street zoned DMU and CS. The applicant proposes to rezone the property to DMU for the development of a 120-foot, multi-story building including retail, offices and condominiums with an underground garage under both existing lots. Access is proposed via West 17<sup>th</sup> Street with no access proposed on Lavaca Street. The property is subject to active Board of Adjustment variances under case C15-01-011 and C15-01-072. Furthermore, the site is subject to a restrictive covenant addressing development of the tract as a single site.

### **Transportation**

1. No additional right-of-way is needed at this time.



2. A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

### **Environmental**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. At this time, the site is developed and there are no significant environmental features.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

### **Water and Wastewater**

1. The site is currently served with City of Austin water and wastewater utilities.
2. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, utility adjustments, and utility relocation.
3. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility.
4. The plan must be in accordance with the City design criteria.
5. The water and wastewater utility construction must be inspected by the City.
6. The landowner must pay the associated and applicable City fees.

### **Site Plan**

1. This site is not subject to compatibility standards under the provisions of 25-2-581.

**RE: LaVista on Lavaca**  
1701 Lavaca Street  
Town Lake Watershed, Urban Watershed

## **INTRODUCTION:**

Guerrero-McDonald & Associates, owners of the subject property, are planning a mixed-use building and parking garage at 1701 Lavaca Street. This project consists of a multi-story retail/offices/condominium complex located on Lots 1 and 2 with an underground parking garage located under both lots. The site is located within walking distance of the Capitol, The University of Texas and the new Texas State History Museum. This project is part of the "Smart Growth Initiative". It was approved for a site plan in 2001 (SP-01-0225C).

## **SITE DESCRIPTION:**

The subject tract lies within the City of Austin Full Purpose Jurisdiction, as classified by the City of Austin Extra - Territorial Jurisdiction Map. (Sept. 7, 1998). It is also a part of the Central Business District, but is not within the Capitol View Corridor or within the Development Moratorium area. The 0.401 acre site (17,724 square feet) is located in the upper reaches of the Town Lake Watershed, an Urban Watershed as classified by the City of Austin Watershed Regulation Maps (C.O.A. 1996). It is not located within the 100-year floodplain as identified by FEMA and there are no critical environmental features. The site was determined to have Legal Lot Status (C8i-002177).

## **ZONING**

The site is currently zoned DMU and CS. The applicant wishes to change the zoning to DMU across both lots. The proposed project will adhere to the DMU restrictions as follows:

**Height: 120 feet**  
**Maximum Floor Area Ratio: 5:01**  
**Maximum Impervious Cover: 100%**  
**Maximum Building Coverage: 100%**  
**No Lot Size Requirement**

However, the front lot had obtained a variance (Case No. C15-01-072) in 2001 to increase the F.A.R. from 5:1 to 8:1 on lot 1. The proposed building utilizes this variance (see attached rendering of proposed building). There are no variances proposed from the DMU restrictions on lot 2.

ATTACHMENT A

**CITY OF AUSTIN  
BOARD OF ADJUSTMENT/SIGN REVIEW BOARD  
DECISION SHEET**

Y Herman Thun y Barbara Aybar y Frank Fuentes y Betty Edgemon  
Chair Vice-Chair  
Laurie Virkatis Wanda Penn Dorothy Richter y Leane Heldenfels

**DATE: June 11, 2001**

**CASE NUMBER: C15-01-072**

**APPLICANT: Mary McDonald and LaVista on Lavaca**

**ADDRESS: 208 West 17<sup>th</sup>/1701 Lavaca**

**VARIANCE REQUESTED:** The applicant has requested a variance to increase the maximum impervious coverage requirement of Section 25-2-492(D) from 95% to 100% in order to erect a Mixed Use Building with Parking Garage in a "CS", Commercial Services zoning district. (208 West 17<sup>th</sup> Street)

**The applicant has requested a variance to increase the maximum building coverage requirement of Section 25-2-492(D) from 95% to 100% in order to erect a Mixed Use Building with Parking Garage in a "CS", Commercial Services zoning district. (208 West 17<sup>th</sup> Street)**

**The applicant has requested a variance to increase the maximum floor to area ratio requirement of Section 25-2-492(D) from 5:1 to 8:1 in order to erect a Mixed Use Building with Parking Garage in a "DMU", Downtown Mixed Use zoning district. (1701 Lavaca Street)**

**BOARD'S DECISION: GRANTED 5-0**

**FINDINGS:**

- 1. The Zoning regulations applicable to the property do not allow for a reasonable use because: due to the DMU zoned lot immediately adjacent to the west the property is to comprise a mixed use project and will be built out to the property line on 17<sup>th</sup> Street.**

2. (a) The hardship for which the variance is requested is unique to the property in that: a continuous building face will encourage pedestrian traffic along 17<sup>th</sup> Street which now has minimal foot traffic.

- (b) The hardship is not general to the area in which the property is located because: currently the blocks of 17<sup>th</sup> Street and Lavaca Street near this project site are not pedestrian oriented and our development will promote foot traffic.

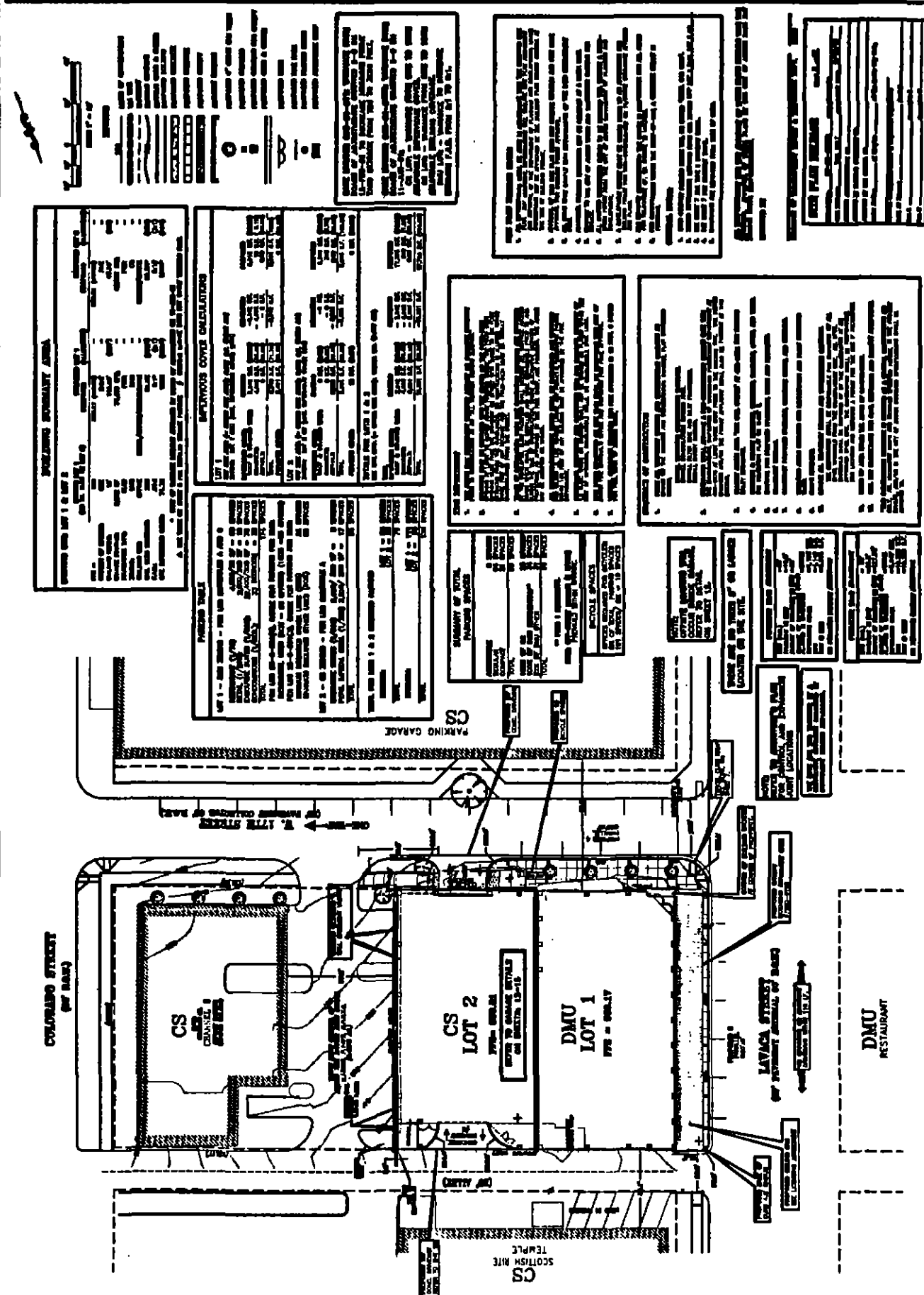
ATTACHMENT B

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: our lot and adjacent lots are currently used as surface parking pave to the lot line and we believe that building to the property line on our ES zoned site enhances its potential for commercial services.

*for* Clara Hilly  
Alice Glasco, Executive Secretary

Dorian Walker  
for Herman Thun, Chairperson

## References









499-0907

## RESTRICTIVE COVENANT

**OWNER:** Mary Guerrero-McDonald

**ADDRESS:** P.O. Box 160518  
Austin, Texas 78716

**PROPERTY ADDRESS:** 1701 Lavaca Street, Austin, Texas

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** Being a 0.407 AC (17,724 SF) tract of land, the west 138' of the south 128' of Government Outlot 41, Division E, of the original 1840 City of Austin plat filed in the General Land Office, Austin Texas, also known as lots 1 and 2 and conveyed to Neches 6<sup>th</sup> Street LC in a special warranty deed recorded in volume 11821, page 2064, real property records, Travis County, Texas.

Land Status Determination File Number: C81-00-2177  
Parcel Numbers: 0210022906 & 0210022907

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions as requirements of site plan approval for the Property:

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land and shall be binding on the Owner of the Property, its successors, and assigns.

1. For the purpose of site plan review, modification, or approval by the City of Austin, the above described 0.407 AC tract of land shall be construed as a modification to a single site, requiring a review in accordance with the provisions of the Land Development Code of the City of Austin. This section applies to, but is not limited to, the extent of impervious coverage, parking and landscaping of the site area. This restrictive covenant shall expire upon the expiration of site plan SP-01-0225C, as filed in records of the City of Austin, Department of Development Review and Inspections.

2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this agreement or covenant is declared invalid, by judgement or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) the Director of the Watershed Protection and Development Review (WPDR) of the City of Austin or such other department as may succeed the WPDR and (b) the owner(s) of the Property at the time of such modification, amendment or termination.

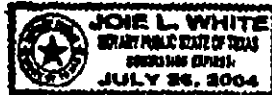
ATTACHMENT D

All citations to the Austin City Code shall refer to the Austin City Code of 1992, as amended from time to time, unless otherwise specified. When the context requires, singular nouns and pronouns include the plural.

By: Mary Guerrero McDonald  
 Name: Mary Guerrero McDonald  
 Title: Owner  
 Date: June 15, 2001

STATE OF TEXAS  
 COUNTY OF TRAVIS

This instrument was acknowledged before me on June 15th, 2001 by Mary Guerrero-McDonald, the owner of above describe 0.407 AC tract of land.



Joie L. White  
 Notary Public in and for the  
 STATE OF TEXAS

My Commission Expires: July 26, 2004

Return:

MARY GUERRERO-McDONALD  
P.O. BOX 160518  
AUSTIN, TEXAS 78716

FILED - MAY 16 2004

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# **GUERRERO-McDONALD & ASSOCIATES, INC.**

**CONSTRUCTION / DESIGN / DEVELOPMENT**

**1701 Lavaca Street, Austin, Texas, 78701; (512) 327-2166, (512) 327-4639 (fax)**

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May 22, 2006

**RECEIVED**

**MAY 22 2006**

Jorge Rousselin  
City of Austin Zoning Department

Neighborhood Planning & Zoning

Re: 1701 Lavaca Street

This is a request that the DMU rezoning of the CS lot on the above-mentioned property be self-imposed to a height limitation of sixty feet. As submitted for permitting and development review, the site plan is designed for the sixty feet limitation and the Partners support and accept that limitation.

Thank you in advance for your assistance on this rezoning matter.

Respectfully,

1701 Lavaca, LP d/b/a

LaVista on Lavaca

  
Mary Guerrero-McDonald

Lavaca Leasing & Development, LLC

General Partner



# Cambridge Tower

CONDOMINIUMS

1801 Lavaca Street • Austin, TX 78701 • Tel: (512) 478-7218  
Fax: (512) 478-2678 • cambridgetower@sbcglobal.net

May 23, 2006

Jorge Rousselin  
Neighborhood Planning and Zoning Department

Re: 1701 Lavaca Street  
LaVista on Lavaca  
Case #C14-06-0081

Dear Mr. Rousselin:

I am writing in my capacity as President of the Cambridge Council of Owners. We are an existing condominium building located a half-block north of the above proposed project. We have met with Mary Guerrero-McDonald, developer of this project, on several occasions and she has kept the Cambridge residents informed of the plans, scope and progress of the project.

We have now received a copy of her letter to you dated May 22, 2006 concerning the self-imposed height limitation of sixty feet on one of the lots comprising this project, specifically the lot now zoned CS and being considered for DMU rezoning. We understand that this sixty foot height limitation is in accordance with the plans submitted by the developer to the City for this project. We also understand that DMU zoning is required on this lot because of its proposed mixed use.

Accordingly, Cambridge Council of Owners offers no objection to the rezoning of this lot with a sixty foot height limitation and we continue to support Ms. Guerrero-McDonald's efforts to build the project in accordance with her plans as previously communicated to the Cambridge owners.

Very truly yours,

Marie C. Arnold  
President, Cambridge Council of Owners

cc: Mary Guerrero-McDonald